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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/498,363	02/04/2000	Yves Naoumenko	146493US6	8719
22850 7590 09/18/2008 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER FERGUSON, LAWRENCE D				
ART UNIT		PAPER NUMBER		
1794				
NOTIFICATION DATE		DELIVERY MODE		
09/18/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

**Application No.**

09/498,363

**Applicant(s)**

NAOUMENKO ET AL.

**Examiner**

LAWRENCE D. FERGUSON

**Art Unit**

1794

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 and 10-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/88)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Appeal Brief***

1. This action is in response to the appeal brief filed March 11, 2008.

Examiner regrets the untimely reopening of the case and withdraws the previous rejections to further prosecute the claimed invention. Claims 1-7 and 10-19 are pending in this case.

***Claim Rejections – 35 USC § 103(a)***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7 and 10-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kunert (U.S. 4,551,372).

Kunert discloses a laminated glass sheet (column 2, line 66) comprising a first glass (transparent) sheet (2), a second glass (transparent) sheet (1), wherein the first sheet is offset in relation to the second sheet to form an exposed edge portion of the first sheet, (Figure 1) when looking in the direction of the left side of the laminate in Figure 1. Figure 1 further shows an adhesive layer (3) binding the second sheet and first sheet, where the adhesive layer extends over a portion of at least the exposed

edge portion of the first sheet, where an intermediate element (7) partially covers the adhesive layer and an adhesive element (10) adhered partly to the intermediate element.

Although Kunert teaches the adhesive element can consist of a material that hardens after application but which can be softened before mounting, the reference does not explicitly teach this element is a cement element or that the intermediate element is made of aluminum, stainless steel, epoxy or phenolic, unsaturated polyester resin containing reinforcement fillers. Rothe teaches the benefit of adding cement to a laminated glazing having glass panes for improvement of water tightness (column 1, lines 26-29). This is a conventional application as explained by Rothe in paragraphs 2-4 of column 1. Rothe also teaches that the intermediate element can be made of metals such as aluminum and steel (column 11, lines 1-6). The Rothe reference further includes the use of glass fiber strengthened plastics as reinforcing materials and uses adhesive to adhere the cement to the other layers. The laminated glazing of the combined references can be applied to windows, such as those in automobiles or plane cockpits. The intermediate element of Rothe shows the same intermediate elements as applicant claims and provides the same tensile strength (column 13, lines 53-60). It would have been obvious to one of ordinary skill in the art to make the glass laminate of Kunert provided with the intermediate element and cement of Rothe because Rothe shows the use of the cement to be conventional and shows it is used for improving the water tightness of the laminated material. It is also obvious to use the intermediate elements in Rothe in place of those used by Kunert, as those cited in Rothe are

conventional and the benefits of using them are well known. In claim 1, the phrase, "for securing glazing to a body is an intended use, which is given little patentable weight.

Concerning claim 3, the intermediate element (7) does not penetrate under the second sheet (1) because the second sheet is a solid glass material and cannot be penetrated.

Concerning claim 4, because the intermediate element is an enamel substance (column 4, lines 39-40), if the glass laminate is pressed upon, it is possible for the intermediate element to compress and slightly penetrate under the second sheet.

Concerning claim 5, the phrase, "formed of a material having a tensile strength in conformity with the standard ISO 527" introduces a process limitation to the product claim. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966. Further, process limitations are given little patentable weight in product claims.

Concerning claims 6-7 and 10-11, although the reference does not explicitly disclose the tensile strength or porosity of the intermediate element, tensile strength and porosity are optimizable. It would have been obvious to one of ordinary skill in the art to optimize the intermediate element because discovering the optimum or workable range involves only routine skill in the art. The tensile strength and porosity directly affects the durability and permeability of the laminated glazing. *In re Aller* 105 USPQ 233 and see *In re Boesch*, 617 USPQ 215.

Concerning claim 12, Figure 1 shows the cement element (10) is adhered to both the intermediate element (7) and first sheet (2).

Concerning claim 13, Figure 1 shows the cement element is adhered to only the intermediate element (7).

Concerning claim 19, Kunert discloses the laminated glass is used for motor vehicles (column 1, lines 6-8).

### ***Response to Arguments***

4. Applicant's arguments of rejection under 35 USC 103(a) over De Paoli (U.S. 5,132,162) in view of Roth et al. (U.S. 5,137,770) are moot based upon grounds of new rejection.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence Ferguson whose telephone number is 571-272-1522. The examiner can normally be reached on Monday through Friday 9:00 AM – 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks, can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Lawrence Ferguson/  
Patent Examiner, Art Unit 1794

/KEITH D. HENDRICKS/  
Supervisory Patent Examiner, Art Unit 1794